

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES

V.
MATT A. HAVEY

CRIMINAL NO. 04 10231 mlw 3

MOTION TO STRIKE SURPLUSAGE FROM INDICTMENT

The defendant moves to strike as surplusage from the indictment the entire contents of pages 57 through 61 entitled "Notice of Additional Factors".

The additional factors referred to are matters under the United States Guidelines that have been declared unconstitutional. See *United States v. Booker and Fanfan* U.S. (2005).

/s/Roger Witkin
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DATED: January 31, 2005

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CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the within document was served upon the attorney of record for the United States, AUSA Victor A. Wild, and a courtesy copy to Thomas Quinn, Courtroom Clerk for Honorable Judith G. Dein by mail and electronic filing, which was e-filed this day.

/s/ Roger Witkin

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